

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

NOVI FOOTWEAR INTERNATIONAL CO.
LIMITED,

Plaintiff,

-against-

EARTH OPCO LLC, WINDSONG
CAPITAL MANAGEMENT LLC,
WILLIAM SWEEDLER and WINDSONG
GLOBAL LLC,

Defendants.

Civil Action No.: 1:22-cv-10952-MJJ

PLAINTIFF’S MOTION FOR SANCTIONS PURSUANT TO RULE 37

Pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1, Plaintiff Novi Footwear International Co. Limited (“Novi”), through its undersigned counsel, hereby files this Motion for Sanctions against Defendants Earth OpCo LLC (“Earth”), Windsong Capital Management LLC (“Windsong Capital”), William Sweedler (“Sweedler”) and Windsong Global LLC (“Windsong Global”, and collectively with Earth, Windsong Capital and Sweedler, the “Defendants”), for the Defendants’ failure to comply with this Court’s order of September 22, 2023 compelling supplemental interrogatory responses. (ECF Nos. 160 and 161).

As set forth in the accompanying Memorandum in Support, Defendants have failed to supplement discovery responses in compliance with this Court’s order of September 22, 2023 and with the Federal Rules of Civil Procedure. A proposed Order is attached, and Plaintiff requests a hearing.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order substantially similar to the attached Proposed Order.

Dated: November 7, 2023

Respectfully submitted,

/s/ Aaron L. Casagrande
Kevin G. Hroblak (admitted *pro hac vice*)
Aaron L. Casagrande (admitted *pro hac vice*)
ICE MILLER LLP
100 Light Street, Suite 1350
Baltimore, Maryland 21202
(410) 951-5876 (telephone)
(410) 951-5879 (fax)
Kevin.Hroblak@IceMiller.com
Aaron.Casagrande@IceMiller.com

-and-

Laurence A. Schoen (BBO # 633002)
MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, MA 02111
(617) 348-1764 (telephone)
(617) 542-2241 (fax)
LASchoen@mintz.com

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I, Aaron L. Casagrande, hereby certify that Plaintiff's *Motion for Sanctions*, accompanying *Memorandum in Support*, and all documents attached thereto filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on November 7, 2023. Copies of this filing will also be served on Defendants, to the extent their counsel is not yet registered.

/s/ Aaron L. Casagrande
Aaron L. Casagrande

CERTIFICATE OF COMPLIANCE WITH L.R. 7.1(a)(2) AND L.R. 37.1(b)

I hereby certify that, in an attempt to narrow the areas of disagreement regarding this dispute, counsel for Plaintiff has met and conferred with counsel for Defendants on the following occasions:

- (1) Videoconference meet and confer on October 9, 2023 between Aaron Casagrande on behalf of Plaintiff and Catherine Wigglesworth on behalf of Defendants lasting approximately fifteen (15) minutes;
- (2) Videoconference meet and confer on October 18, 2023 between Aaron Casagrande and Aaron Nichols on behalf of Plaintiff and Catherine Wigglesworth and Neil Steiner on behalf of Defendants lasting approximately one (1) hour;
- (3) Videoconference meet and confer on October 27, 2023 between Aaron Casagrande and Aaron Nichols on behalf of Plaintiff and Neil Steiner and Hayoung Park on behalf of Defendants lasting approximately thirty (30) minutes;
- (4) Meet and confer emails sent on October 9, 16, 19, 25 and 30, 2023 by Aaron Casagrande on behalf of Plaintiff to counsel for Defendants Catherine Wigglesworth, Neil Steiner and Timothy Blank;

As of the date of this filing, counsel for Defendants have not provided substantive responses to Plaintiff's communications regarding the Defendants' deficient interrogatory responses that are the subject of this Motion for Sanctions.

/s/ Aaron L. Casagrande
Aaron L. Casagrande